

GAHC010200252023



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Crl.Pet./953/2023

SHEKH ABDULLA
S/O MD. NAZRUL ISLAM
R/O VILL- DURABANDHI GAON,
P.S. MOIRABARI
DIST. MORIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REP. BY THE PP, ASSAM

2:MD. ISLAM UDDIN
SO LATE SABED ALI
R/O VILL- DURABANDHI GAON
P.S. MOIRABARI
DIST. MORIGAON
ASSA

Advocate for the Petitioner : MR R YASIN

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MR. JUSTICE ROBIN PHUKAN
ORDER

12.09.2023

Heard Mr. S. Krishnatreya, learned counsel for the petitioner and Mr. P. Borthakur, learned Addl. P.P. for the State respondent.

2. In this petition, under Sections 482 of the Cr.P.C., the petitioner, **Shekh**

Abdulla has put to challenge the orders dated 21.10.2021; 11.07.2022; and 09.11.2022, passed by the learned CJM, Morigaon in PRC Case No. 500/2020.

3. It is to be noted here that vide orders dated 21.10.2021, the learned court below has issued Non-Bailable Warrant of Arrest [NBWA] against the petitioner; vide order dated 11.07.2022, the learned court below has issued Proclamation and Attachment [P&A] against the petitioner and order dated 09.11.2022, the learned court below has declared the petitioner as proclaim offender.

4. Mr. Krishnatreya, learned counsel for the petitioner submits that the petitioner was arrested and released on bail on 10.01.2019, and thereafter, charge sheet was submitted on 31.05.2019, and the petitioner was not aware of submission of the charge sheet and therefore, he could not appear before the learned court below on 21.10.2021, for which the learned court below has issued NBWA against the petitioner. Mr. Krishnatreya further submits that the accused is ready to face the trial and he will appear before the learned court below on each and every date and therefore, it is contended to allow the petition and to recall the NBWA issued against the petitioner.

5. Mr. Borthakur, learned Addl. P.P. also submits that the NBWA issued against the petitioner may be stayed on the condition that he will appear before the learned court below and participate in the trial.

6. Having heard the submissions of learned counsel for both the parties, I have carefully gone through the petition as well as the documents placed on record and also perused the impugned orders dated 21.10.2021; 11.07.2022; and 09.11.2022.

7. It appears that vide impugned order dated 21.10.2021, the learned court below has issued NBWA against the petitioner and as he remain absent without any step. It also appears that vide subsequent order dated 11.07.2022, the learned court below has issued P&A against the petitioner, as the NBWA issued against him could not be executed and order dated 09.11.2022, the learned court below has declared

the petitioner as proclaim offender and directed to keep the NBWA issued against him, pending till execution.

8. From a bare perusal of the impugned orders dated 21.10.2021; 11.07.2022; and 09.11.2022, no infirmity or illegality appears to be committed by the learned court below. However, since the petitioner is willing to appear before the learned court below and ready to participate in the trial, for the ends of justice this Court deem it fit and proper to allow the opportunity to him. Accordingly, the impugned orders dated 21.10.2021; 11.07.2022; and 09.11.2022, stands set aside and quashed.

9. The petitioner is directed to appear before the learned court below within a period of 15 [fifteen] days from today and on his appearance and on filing a petition for allowing him to go on bail or to remain on previous bail, the learned court below shall consider the same in accordance with law.

10. In terms of above, this Criminal petition stands disposed of, at this motion stage itself.

JUDGE

Comparing Assistant